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9 **BEFORE THE**
10 **BOARD OF REGISTERED NURSING**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. **2010-334**

13 ROGER VICENTE LARREA
28460 Alessandro Blvd.
14 Moreno Valley, CA 92555

A C C U S A T I O N

15 Registered Nurse License No. 627780

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Complainant Louise R. Bailey, M.Ed., RN, brings this Accusation solely in her
21 official capacity as the Interim Executive Officer of the Board of Registered Nursing (Board),
22 Department of Consumer Affairs.

23 2. On October 10, 2003, the Board of Registered Nursing issued Registered Nurse
24 License Number 627780 to Respondent Roger Vicente Larrea. The license was in full force and
25 effect at all times relevant to the charges brought herein and will expire on January 19, 2010,
26 unless renewed.

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1 **JURISDICTION**

2 3. This Accusation is brought before the Board, Department of Consumer Affairs,
3 under the authority of the following laws. All section references are to the Business and
4 Professions Code unless otherwise indicated.

5 4. Section 2750 of the Business and Professions Code (Code) provides, in pertinent
6 part, that the Board may discipline any licensee, including a licensee holding a temporary or an
7 inactive license, for any reason provided in Article 3 (commencing with section 2750) of the
8 Nursing Practice Act.

9 5. Section 2764 of the Code provides, in pertinent part, that the expiration of a
10 license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding
11 against the licensee or to render a decision imposing discipline on the license. Under section
12 2811, subdivision (b) of the Code, the Board may renew an expired license at any time within
13 eight years after the expiration.

14 **STATUTORY PROVISIONS**

15 6. Section 2761 of the Code states:

16 The board may take disciplinary action against a certified or licensed
17 nurse or deny an application for a certificate or license for any of the following:

18 (a) Unprofessional conduct, which includes, but is not limited to, the
19 following:

20

21 (f) Conviction of a felony or of any offense substantially related to the
22 qualifications, functions, and duties of a registered nurse, in which event the
23 record of the conviction shall be conclusive evidence thereof.

24

25 7. Section 2762 of the Code states:

26 In addition to other acts constituting unprofessional conduct within the
27 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct
28 for a person licensed under this chapter to do any of the following:

. . . .

(b) Use any controlled substance as defined in Division 10 (commencing
with Section 11000) of the Health and Safety Code, or any dangerous drug or
dangerous device as defined in Section 4022, or alcoholic beverages, to an extent

1 or in a manner dangerous or injurious to himself or herself, any other person, or
2 the public or to the extent that such use impairs his or her ability to conduct with
safety to the public the practice authorized by his or her license.

3 (c) Be convicted of a criminal offense involving the prescription,
4 consumption, or self-administration of any of the substances described in
5 subdivisions (a) and (b) of this section, or the possession of, or falsification of a
6 record pertaining to, the substances described in subdivision (a) of this section, in
7 which event the record of the conviction is conclusive evidence thereof.

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9 8. Section 490 of the Code provides, in pertinent part, that a board may suspend or
10 revoke a license on the ground that the licensee has been convicted of a crime substantially
11 related to the qualifications, functions, or duties of the business or profession for which the
12 license was issued.

13 9. Section 493 of the Code states:

14 Notwithstanding any other provision of law, in a proceeding conducted by
15 a board within the department pursuant to law to deny an application for a license
16 or to suspend or revoke a license or otherwise take disciplinary action against a
17 person who holds a license, upon the ground that the applicant or the licensee has
18 been convicted of a crime substantially related to the qualifications, functions,
19 and duties of the licensee in question, the record of conviction of the crime shall
20 be conclusive evidence of the fact that the conviction occurred, but only of that
21 fact, and the board may inquire into the circumstances surrounding the
22 commission of the crime in order to fix the degree of discipline or to determine if
23 the conviction is substantially related to the qualifications, functions, and duties
24 of the licensee in question.

25 As used in this section, "license" includes "certificate," "permit,"
26 "authority," and "registration."

27 REGULATORY PROVISIONS

28 10. California Code of Regulations, title 16, section 1444, states:

A conviction or act shall be considered to be substantially related to the
qualifications, functions or duties of a registered nurse if to a substantial degree it
evidences the present or potential unfitness of a registered nurse to practice in a
manner consistent with the public health, safety, or welfare. Such convictions or
acts shall include but not be limited to the following:

(a) Assaultive or abusive conduct including, but not limited to, those
violations listed in subdivision (d) of Penal Code Section 11160.

(b) Failure to comply with any mandatory reporting requirements.

(c) Theft, dishonesty, fraud, or deceit.

1 (d) Any conviction or act subject to an order of registration pursuant to
2 Section 290 of the Penal Code.

3 **COST RECOVERY**

4 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request
5 the administrative law judge to direct a licensee found to have committed a violation or
6 violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation
7 and enforcement of the case.

8 **FIRST CAUSE FOR DISCIPLINE**

9 **(March 23, 2009 Criminal Conviction for DUI on October 11, 2008)**

10 12. Respondent has subjected his license to disciplinary action under sections 490 and
11 2761, subdivision (f) of the Code in that he was convicted of a crime substantially related to the
12 qualifications, functions, and duties of a registered nurse. The circumstances are as follows:

13 a. On March 23, 2009, in a criminal proceeding entitled *People of the State*
14 *of California v. Roger Vicente Larrea*, in Riverside County Superior Court, case number RIM-
15 523902, Respondent was convicted on his plea of guilty of violating Vehicle Code section
16 23152, subdivisions (a) and (b), driving while under the influence of alcohol and a drug, and
17 under their combined influence, with a blood alcohol level of .08 or more.

18 b. As a result of the conviction, on March 23, 2009, Respondent was
19 sentenced to three years summary probation; serve fifteen days on consecutive weekends in the
20 county jail, with credit for two days served; completion of a nine-month First Offender DUI
21 Program; payment of \$1,863.40 in fines, fees, and restitution; and standard alcohol conditions,
22 including not driving with alcohol in the blood or without proper licensure or insurance.

23 c. The facts that led to the conviction were that at about 1711 hours on
24 October 11, 2008, a Deputy of the Riverside Sheriff's Department responded to a collision at the
25 intersection of Moreno Beach and Cottonwood Streets, in Moreno Valley. The collision
26 occurred when Respondent struck a Ford Focus stopped ahead of him with his Pontiac G6,
27 injuring both himself and the driver of the Focus, who were taken to nearby hospitals. While at
28 the hospital, Respondent stated he was traveling at approximately 45 miles per hour prior to

1 hitting the Focus, and admitted drinking a glass of Sangria before deciding to drive his car.
2 While interviewing Respondent at the hospital, the Deputy noticed respondent had red, watery
3 eyes, and a strong smell of alcohol coming from his breath and person, which matched the
4 objective symptoms of driving under the influence of alcohol noted by the officer who initially
5 responded to the collision. A preliminary alcohol screening of Respondent at the hospital
6 yielded a .16% BAC at 1752 hours on October 11, 2008.

7 **SECOND CAUSE FOR DISCIPLINE**

8 **(Unprofessional Conduct - Use of Alcohol in a Dangerous Manner)**

9 13. Respondent has subjected his license to disciplinary action under sections 2761,
10 subdivision (a), and 2762, subdivision (b) of the Code in that on or about October 11, 2008, as
11 detailed in paragraph 12, above, Respondent used alcoholic beverages to an extent or in a
12 manner dangerous or injurious to himself and the public, which constitutes unprofessional
13 conduct substantially related to the qualifications, functions, and duties of a registered nurse.

14 **THIRD CAUSE FOR DISCIPLINE**

15 **(Unprofessional Conduct - Conviction of Alcohol-Related Criminal Offense)**

16 14. Respondent has subjected his license to disciplinary action under sections 2761,
17 subdivision (a), and 2762, subdivision (c) of the Code in that on or about October 11, 2008, as
18 detailed in paragraph 12, above, Respondent was convicted of a criminal offense involving the
19 consumption and self-administration of alcohol, which constitutes unprofessional conduct
20 substantially related to the qualifications, functions, and duties of a registered nurse.

21 **PRAYER**

22 WHEREFORE, Complainant requests that a hearing be held on the matters herein
23 alleged, and that following the hearing, the Board of Registered Nursing issue a decision:


24 1. Revoking or suspending Registered Nurse License Number 627780, issued to
25 Roger Vicente Larrea;

26 2. Ordering Roger Vicente Larrea to pay the Board of Registered Nursing the
27 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
28 Professions Code section 125.3;

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3. Taking such other and further action as deemed necessary and proper.

DATED: 1/14/10


LOUISE R. BAILEY, M.Ed., RN
Interim Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant